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EXAMINER

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Please find below and/or attached an Office communication concerning this application or proceeding.

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

MAILED

Application Number: 10/712,261
Filing Date: November 14, 2003
Appellant(s): VELKE ET AL.

SEP 24 2007

GROUP 3600

Joseph A. Rhoa
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 8/9/2007 appealing from the Office action mailed 5/15/2007.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

5810371	VELKE	9-1998
6622354	KLINGIER	9-2003
5878834	BRAINERD ET AL	3-1999
5966911	GRAY ET AL	10-1999
4156339	DUNN ET AL	5-1979

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

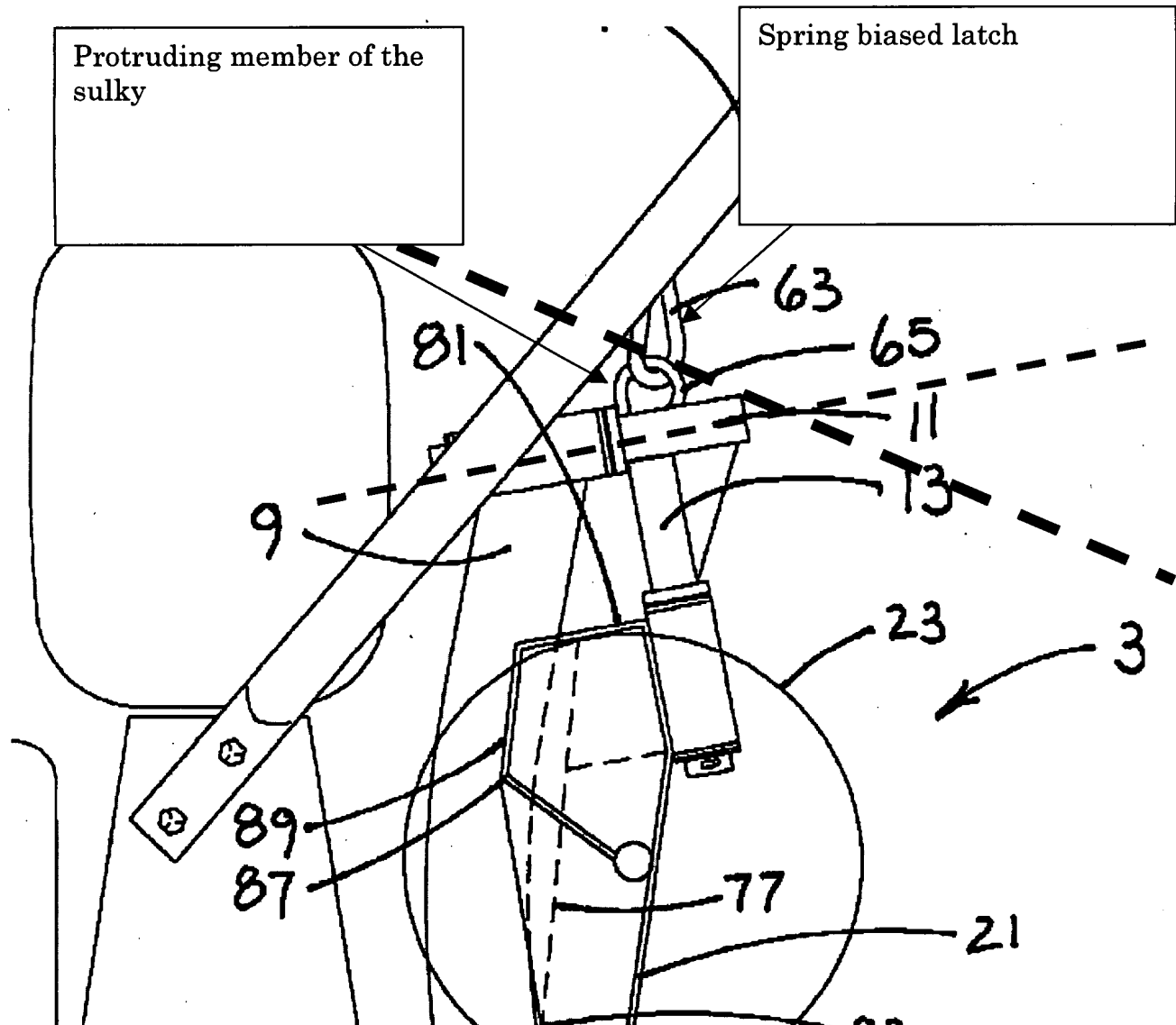
Claims 27-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over.

Velke ('371), in view of Klingier ('354) and/or Brainerd et al ('834) and/or Gray et al ('911) and/or Dunn et al ('339).

Velke discloses the claimed device: an engine (53, col. 6, ln 8-11); a sulky (3) comprises a substantially vertical pivot axis structure (fig 12, vertical pivot 11), a foot platform (21) pivots relative to a front arm (9) about the same pivot axis above; a latch assembly for coupling a protruding member (65) member of the

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sulky to a spring-biased latch (63) as defined in the claim & angles shown with dashed lines as shown in the figure below:



the latch assembly is located under the dashboard of the mower (fig 12); a buttress plate (29), so that a leading portion (see fig 11 & 12 sulky's design; one of

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the leading portion can be 79) of the sulky capable of hitting the buttress plate (see fig. 12); the sulky extends outwardly from the vertical pivot axis of the sulky (fig 12); except for specifying the link (ref 63) clearly as "carabiner" or "locking snap hook" or "spring biased latch."

Klingier discloses that it is known in the art to provide a "carabiner" or "locking snap hook" or "spring biased latch" to support a weight attached when the spring loaded "gate" of the carabiner is in the latched position.

Brainerd discloses that it is known in the art to provide a "carabiner" or "locking snap hook" or "spring biased latch" (fig 1B, 2A) that is economical to manufacture & durable (col. 2, ln 31-48).

Gray discloses that use of "carabiner" (26) or "locking snap hook" or "spring biased latch" is well known:

"Referring again to FIG. 5, and to the preferred embodiment depicted therein, it will be seen that the distal portion 24 of the line 14 is comprised of a snap hook 26 which can readily be connected and disconnected from bit 28 (see FIG. 6). These snap hooks 26 are well known to those skilled in the art and are described, e.g., in U.S. Pat. Nos. 5,762,282 (locking snap hook or carabiner), 5,738,033 (carabiner like hooks, safety hooks, and connector hardware), 5,727,646 (hook, bracket, carabiner, and other types of hardware that can be readily connected or disconnected), 5,692,306 (carabiner hook), 5,687,535, (hook or carabiner), 5,634,499 (hook or carabiner), 5,608,961 (carabiner hook), 5,570,512 (carabiner hook), 5,560,441 (carabiner or quick link), 5,553,685, 5,526,896, 5,463,798 (self locking carabiner), 5,370,202 (snap lock or carabiner), and the like. The entire disclosure of each of these United States patents is hereby incorporated by reference into this specification."

Dunn discloses that it is known in the art to provide a lawn mower a supporting means that consist of and/or includes a snap-lock retainers (24 and 25).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to know that the snap-lock retainer / spring biased latch (ref 63) of Velke is a "carabiner" or "locking snap hook" or "spring biased latch" as demonstrated by Klingier/Brainerd/Gray/Dunn that it is well known, and it is widely used across many arts, including the lawn mower art.

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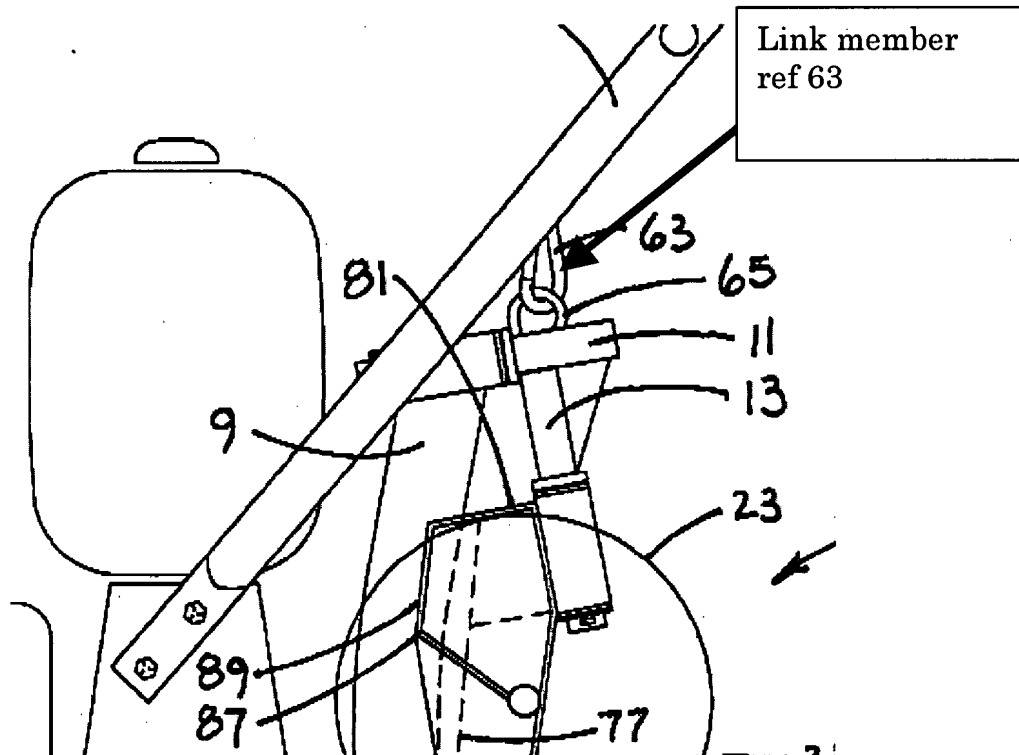
(10) Response to Argument

In re claim 27, the Appellant argued:

I. that Velke fails to disclose or suggests the “spring-biased latch”

Appellant renamed/mischaracterized ref. 63 of Velke as “chain link.”

However, this new label is misleading and it is in error. Velke identifies the link as “link member 63.”



The link member 63 is disclosed in the following paragraph:

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As shown in FIG. 3, self-propelled power mower 3 includes engine 53, separately powered rear drive wheels 55, front wheel(s) 57, mower deck 59 below which the cutting blade is rotatably connected to cut grass and the like, and operator controls 61 mounted on handle bars 49 for permitting the standing operator supported on platform 21 to control mower 3 using his hands. Also included on or between the handle bars of mower 3 is hanging link member 63 to which sulky 3 is connected by ring 65 during storage. Thus, sulky 3 hangs from or is suspended by the handle bars, namely link 63 by way of ring 65, during storage so that the operator may simply walk behind the mower while operating it when sulky 3 is in the storage position.

The storage position would be difficult to accomplish (see fig. above) with a "chain link."

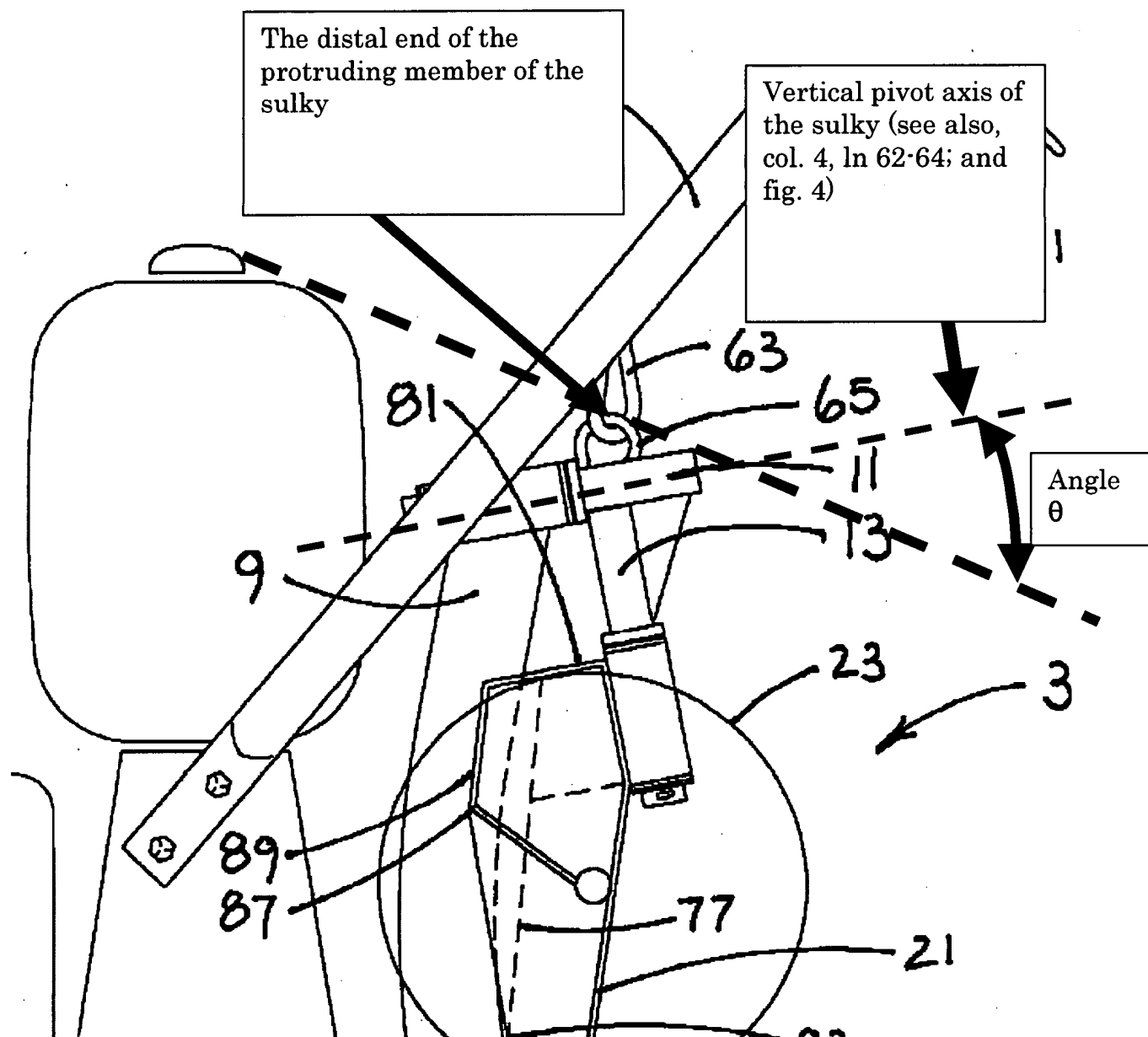
It is clear from the drawing (see fig above) the "link member 63" is a spring-biased latch, which is, to one skilled in the art, also known as "carabiner" and "locking snap hook." Examiner provided proofs that such link members, especially as used in Velke to one skilled in the art would be construed as a spring-biased latch, because it is a well known / old element, and it is used across different / varying art, including in the lawn mower art.

Appellant's arguments directed against Velke only, at the same time mischaracterized the link member. Appellant cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references.

II. that Velke fails to disclose or suggests the "protruding member defines an angle θ of from about 30 to 70 degrees"

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Appellant failed to address why Velke's distal end of the protruding member would not define an angle θ as claimed, especially as shown above and repeated below:



In re claim 28, the Appellant argued that Velke fails to disclose the latch assembly under a dashboard. However, this contradicts Appellant's earlier finding that the link member 63 (latch) "dangling from the dashboard ... in Fig. 12" (see Appellant's argument on page 11, 2nd paragraph). Examiner agrees with Appellant's earlier statement that the latch is located under a dashboard of the mower as shown in Fig 12, as recited in the rejection.

In re claim 29, the Appellant argued that Velke fails to disclose "a leading portion of the sulky is adapted to hit the buttress plate when the sulky is moved into the stowed position with excessive force." The sulky's leading portion capable of hitting the buttress plate (plate 29) when moved into stowed position (see upward position in fig 12). It is noted that the claim does not limit the spring latch being used to prevent the sulky from hitting the plate.

In conclusion, Appellant first renamed or mischaracterized link member 63 as a chain link, then failed to address why in view of the teaching of known use of a similar latch across different arts, including the lawn mower art, Velke's link member 63 could not be construed a spring biased latch; failed to consider the angle θ as the Examiner showed in the marked up figure; contradicted a statement made earlier in regards to the latch assembly being under a dashboard; finally, failed to explain why a leading portion of the Velke's sulky could not hit the buttress plate or frame portion of the mower when excessive force is applied to the sulky.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.


For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Arpad F Kovacs/

Arpad F Kovacs

Conferees:

Thomas B Will 

/TBW/

Meredith C. Petravick 